

EXHIBIT 46

CERTIFIED TRANSLATION

BY: OLGA M. ALICEA, FCCI, NJITCE-S

A- 21-026

GOVERNMENT OF PUERTO RICO

19th Legislative
Assembly

2nd Ordinary
Session

HOUSE OF REPRESENTATIVES
H. B. 886

JULY 9, 2021

Presented by the misters and misses *Méndez Núñez, Rodríguez Aguiló, González Mercado, Aponte Hernández, Ramos Rivera, Meléndez Ortiz, Torres Zamora, Charbonier Chinaea, Morales Rodríguez, Pérez Cordero, Parés Otero, Navarro Suárez, Pérez Ortiz, Lebrón Rodríguez, Morales Díaz, Franqui Atilés, Román López, Peña Ramírez, Bulerín Ramos, Correa Del Valle, and Morey Noble*

Referred to

LAW

To create the “Law to Guarantee the Right to a Fair Pension” in order to establish as public policy of the Government of Puerto Rico the protection of the pensions of the employees of the Government of Puerto Rico, the rejection of any cuts thereto, and that the participants of the Retirement System of the Employees of the Government of Puerto Rico who entered that system for the first time before April 1, 1990, as established in Law No. 447 of May 15, 1951, as amended, known as the “Retirement System of the Employees of the Government of the Commonwealth of Puerto Rico Act,” or after April 1, 1990, but before January 1, 2000, as established in Law No. 1 of February 16, 1990, as amended, and whose retirement plans are defined benefits plans, have the right to the payment of a pension equivalent to fifty percent (50%) of their salary; to provide that the Retirement Board will establish at its sole discretion and from time to time the active employees of the Government of Puerto Rico who will be entitled to the fair pension established in this Law; to order the Retirement Board, in coordination with the Puerto Rico Financial Advisory Authority and Fiscal Agency, to carry out all acts necessary to implement the provisions of this Law; and for other related purposes.

CERTIFIED TRANSLATION

BY: OLGA M. ALICEA, FCCI, NJITCE-S

PREAMBLE

Over the past years, the employees of the Government of Puerto Rico have had to endure substantial cuts to their pensions given the fiscal crisis and insolvency that the Retirement System of the Employees of the Government of Puerto Rico is undergoing, as established by Law No. 447 of May 15, 1951, as amended (the “Retirement System”). The Retirement System’s crisis began decades ago and worsened through the years. To try to resolve it, the Government of Puerto Rico tried to reform the Retirement System on several occasions.

In the year 2000, the Retirement System was reformed, and a defined contribution plan was established, better known as “Reforma 2000,” for the public employees who began to contribute as of January 1, 2000. In addition to this reform, that administration injected hundreds of millions of dollars into the Retirement System to help alleviate the actuarial deficit.

During subsequent administrations, the fiscal health of the Retirement System worsened. The bond issues that were carried out in 2008 had adverse consequences to the Retirement System’s fiscal health. Later the employer contributions to the Retirement System were raised to help solve it.

In 2014 another significant reform of the Retirement System was done to try to save it. The reform of Law No. 3-2013 was very detrimental to our public servants, since it significantly reduced their benefits, increased the retirement age, and altered the conditions under which they could retire. As if that were not enough, the Government pledged to make additional contributions to the Retirement System through the establishment of the Uniform Additional Contribution, but it defaulted, which continued to exacerbate the Retirement System’s fiscal health. Consequently, the Government of Puerto Rico and the Retirement System are currently in the process of restructuring their debts under Title III of the Puerto Rico Oversight, Management, and Economic Stability Act (“PROMESA,” by its English acronym).

As part of the restructuring process and as contemplated in the Certified Fiscal Plan of the Government of Puerto Rico (the “Fiscal Plan”) pursuant to PROMESA, the past administration established the “*pay as you go*” system through the enactment of Law No. 106-2017 (“Law 106”), according to which the disbursements for all of the current pensions of the Retirement System continue to be made using funds from the General Fund, as well as the transfers that the Retirement System continues to make of its available funds and the proceeds from the liquidation of its assets. The administration of Governor Ricardo Rosselló also

CERTIFIED TRANSLATION

BY: OLGA M. ALICEA, FCCI, NJITCE-S

prospectively established through this law a New Defined Contributions Plan to ensure that the public servants can enjoy an honorable retirement without limiting the ability of the Government of Puerto Rico to provide essential services to the citizens.

Notwithstanding the foregoing, the most recent Debt Adjustment Plan (the “Adjustment Plan”) presented by the Financial Oversight and Management Board (the “Board”) for the restructuring of the debt of the Government of Puerto Rico in accordance with PROMESA contemplates additional cuts to the public employees’ pensions. The Adjustment Plan aims to eliminate the accumulation of pension participants and to cut the pensions of the beneficiaries of the Retirement System. The cut would be 8.5% and it would be imposed on all of the pensions that, added to the drug, Christmas, and summer bonuses, exceed \$1,500 per month. These additional cuts to the pensions of our public servants are unacceptable and unnecessary from a fiscal and legal point of view. This Administration has been clear and forceful in its position that the public employees must not receive further cuts to their pension benefits.

The well-being of the public servants is a priority for this Administration. For this reason, this Law seeks to protect the pensions of the employees of the Government of Puerto Rico by establishing as a public policy of the Government that those public employees who have entered the Retirement System for the first time before April 1, 1990, in accordance with the provisions in Law No. 447 of May 15, 1951, as amended, known as the “Retirement System of the Employees of the Government of the Commonwealth of Puerto Rico Act,” or after April 1, 1990, but before the January 1, 2000, pursuant to the provisions of Law No. 1 of February 16, 1990, as amended, and whose retirement plan is a defined benefits plan, are entitled to the payment of a pension equivalent to fifty percent (50%) of their salary. The Law empowers the Retirement Board to establish at its sole discretion and from time to time the active employees of the Government of Puerto Rico who will be entitled to the fair pension established in accordance with the provisions of this Law. In addition, the Law orders the Retirement Board, in coordination with the Puerto Rico Financial Advisory Authority and Fiscal Agency (“AAFAF”), to carry out all necessary acts to properly implement said public policy and to fully comply with the provisions of this Law.

CERTIFIED TRANSLATION

BY: OLGA M. ALICEA, FCCI, NJITCE-S

BE IT DECREED BY THE PUERTO RICO LEGISLATURE:

Article 1.- Title.

This Law will be known as the “Law to Guarantee the Right to a Fair Pension.”

Article 2.- Definitions.

The following terms will have the meanings expressed below, except where the context clearly indicates otherwise. Words used in the singular will include the plural and vice versa.

(a) AAFAF: means the Puerto Rico Financial Advisory Authority and Fiscal Agency created by Law No. 2-2017, as amended.

(b) Legislative Assembly: means the Puerto Rico Legislature.

(c) Government of Puerto Rico or Government: means the Government of Puerto Rico and all of its departments, divisions, bureaus, offices, agencies, public corporations, dependencies, and instrumentalities in accordance with the Constitution of Puerto Rico.

(d) Law: means this “Law to Guarantee the Right to a Fair Pension.”

(e) Law 106: means Law No. 106-2017, as amended, known as the “Law to Guarantee Payment to Our Retirees and to Establish a New Defined Contributions Plan for the Public Servants.”

(f) Retirement Board: means the board created under the provisions of Chapter 4 of the aforementioned Law 106.

(g) Participants: means the active employees of the Government of Puerto Rico who have entered the Retirement System for the first time before April 1, 1990, in accordance with the provisions of Law No. 447 of May 15, 1951, as amended, known as the “Retirement System of the Employees of the Government of the Commonwealth of Puerto Rico Act,” or after April 1, 1990, but before January 1, 2000, as established in Law No. 1 of the February 16, 1990, as

CERTIFIED TRANSLATION

BY: OLGA M. ALICEA, FCCI, NJITCE-S

1 amended, and whose retirement plans are defined benefits plans. The Retirement Board may
2 establish from time to time those rules that it deems necessary, at its sole discretion, to determine
3 which active employees of the Government of Puerto Rico will be considered participants in
4 accordance with the provisions of this Law, including, but not limited to, provisions related to
5 those employees who (1) have entered the Retirement System for the first time before April 1,
6 1990, but have chosen to participate in the defined contributions plan known as “Reforma 2000,”
7 as established in Law No. 305-1999, as amended, and (2) despite having entered the Retirement
8 System for the first time before April 1, 1990, have re-entered the Retirement System on or after
9 January 1, 2000, and currently participate in the Reforma 2000.

10 (h) Pension: means the annuity or benefit to which the Participant will be entitled at
11 the time of retiring from public service pursuant to the provisions of this Law, in substitution of
12 the pension to which the Participant would have been entitled under the applicable laws prior to
13 the effective date of this Law. The Pension established herein will be deemed to include, and is
14 not in addition to, any additional benefits related to the minimum pension, Christmas bonuses,
15 medical bonuses, summer bonuses, cost of living adjustments, contributions to the health
16 insurance plan, disability benefits, or additional minimum death benefits applicable in
17 accordance with special laws adopted by the Legislature to those ends.

18 (i) Salary: means the highest gross and cash compensation or consideration accrued
19 by an active employee of the Government of Puerto Rico in any of the last three (3) years prior
20 to the moment of availing themselves of the benefits of this Law, subject to those rules and/or
21 adjustments established by the Retirement Board at its sole discretion. When calculating the
22 salary, any bonus granted in addition to the salary, as well as any payment for overtime work
23 will be excluded.

CERTIFIED TRANSLATION

BY: OLGA M. ALICEA, FCCI, NJITCE-S

(j) Retirement System: means the Retirement System of the Employees of the Government of Puerto Rico as established by Law No. 447 of May 15, 1951, as amended.

Article 3.- Declaration of Public Policy.

Declared as a public policy of the Government of Puerto Rico is the right of each employee of the Government of Puerto Rico to a Fair Pension, as established in this Law, and the overwhelming rejection of any cut to the Pensions of the Participants of the Retirement System that is imposed by the Financial Oversight and Management Board for Puerto Rico through any Certified Fiscal Plan or Debt Adjustment Plan as provided in the Puerto Rico Oversight, Management, and Economic Stability Act (“PROMESA,” by its English acronym). Likewise, declared as a public policy is the protection of the Pensions of the employees of the Government of Puerto Rico who are Participants of the Retirement System as a fair and necessary measure to safeguard the future of our public servants.

Article 4.- Participants' Right to a Fair Pension.

This Law establishes that the Participants who have entered the Retirement System for the first time (1) before April 1, 1990, as established in Law No. 447 of May 15, 1951, as amended, known as the “Retirement System of the Employees of the Government of the Commonwealth of Puerto Rico Act,” or (2) after April 1, 1990, but before January 1, 2000, as established in the Law No. 1 of the February 16, 1990, as amended, and whose retirement plans are defined benefits plans, will be entitled to the payment of a pension equal to fifty percent (50%) of the Salary of such Participant. Provided, that the Retirement Board may establish from time to time those rules that it deems necessary, at its sole discretion, to determine the Pension to which the Participants will be entitled under this Law.

CERTIFIED TRANSLATION

BY: OLGA M. ALICEA, FCCI, NJITCE-S

Article 5.- Powers, Authorities, and Duties of the Retirement Board.

The Retirement Board, in coordination and with the assistance of the AAFAF, is ordered to carry out all necessary acts to implement the provisions of Article 4 and to fully comply with the provisions of this Law, including, but not limited to, promulgating the regulations, procedures, circular letters, and other guidelines or documents necessary to establish:

(a) The specific acts that the Retirement Board will carry out to guarantee the Participants' right to a Pension in accordance with the public policy established in Article 4 of this Law;

(b) The calculation that will be used to determine the Pension corresponding to each of the eligible Participants in accordance with the provisions of this Law;

(c) The fiscal and economic projections that prove the viability of the payment of the Participants' Pensions as established in this Law; and

(d) Any other measure necessary for the implementation and compliance with the provisions of this Law.

Article 6.- Pay-Go. The pension payments required under this Law will be paid through the mechanism of “pay-as-you-go” established by Law 106 and, unless the Retirement Board establishes otherwise, the Pension will be subject to any another provision of Law 106 that is not incompatible with this Law.

Article 7.- Supremacy.

In cases where the provisions of this Law are in conflict with the provisions of any other law of the Legislature, the provisions of this Law will prevail unless the provisions of said other law specifically amend or repeal any or all of the provisions of this law.

CERTIFIED TRANSLATION

BY: OLGA M. ALICEA, FCCI, NJITCE-S

Article 8.- Severability.

If any clause, paragraph, subparagraph, sentence, word, letter, article, provision, section, subsection, title, chapter, subchapter, header, or part of this Law is annulled or declared unconstitutional, the resolution, opinion, or judgment issued to that effect will not affect, harm, or invalidate the remainder of this Law. The effect of said resolution, opinion, or judgment will be limited to the clause, paragraph, subparagraph, sentence, word, letter, article, provision, section, subsection, title, chapter, subchapter, header, or part of this Law that has been so annulled or declared unconstitutional. If the application to a person or to a circumstance of any clause, paragraph, subparagraph, sentence, word, letter, article, provision, section, subsection, title, chapter, subchapter, header, or part of this Law were invalidated or declared unconstitutional, the resolution, opinion, or judgment issued to that effect will not affect or invalidate the application of the remainder of this Law to those persons or circumstances to which it can be validly applied. It is the express and unequivocal will of this Legislature that the courts enforce the provisions and application of this Law to the greatest extent possible, even if it is left without effect, nullifies, invalidates, damages, or declares any of its parts unconstitutional, or even if its application to any person or circumstance is left without effect, invalidated, damaged, or declared unconstitutional. The Legislature would have enacted this Law regardless of the determination of severability that the Court may make.

Article 9.- Effectiveness.

This Law will enter into effect immediately after its enactment.

CERTIFICATION

I, Olga M. Alicea, an English-Spanish Interpreter and Translator certified to that effect by the Administrative Office of the U.S. Courts and by the National Association of Judiciary Interpreters & Translators (NAJIT), do hereby certify that I have personally translated the foregoing document from Spanish to English and that the translation is true and accurate to the best of my knowledge and abilities.

S/ Olga M. Alicea

Olga M. Alicea, FCCI, NJITCE-S
Fed. Cert. No. 98-005

August 11, 2021

Date
Ref.: P1700.021 (CGB)